

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Steven M. RUBEN

Appl. No.: 10/662,429

Filed: September 16, 2003

For: **Apoptosis Inducing Molecule I**

Confirmation No.: 2663

Art Unit: 1644

Examiner: HUYNH, PHUONG N.

Atty. Docket: 1488.1890003/EJH/SAC

**Declaration of Paul Reed
Ruben Exhibit #140**

Ruben EXHIBIT #140

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Paper No. _____

Filed on Behalf of Party Ruben:

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UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**
(Administrative Patent Judge Sally Gardner Lane)

STEVEN M. RUBEN

Junior Party,
(Application No. 08/816,981),

v.

**STEVEN R. WILEY
and RAYMOND G. GOODWIN**

Senior Party,
(Patent No. 5,763,223).

Patent Interference No. 105,077

DECLARATION OF PAUL REED

Ruben EXHIBIT 2140
Ruben v. Wiley et al.
Interference No. 105,077
RX 2140

NYJD: 1533046.11

DECLARATION OF PAUL REED

I, Paul Reed, declare and state as follows:

1. I have been employed by GlaxoSmithKline ("GSK", which includes the former SmithKline Beecham), since 1983. In my current position, I am the Director of Bioinformatics Systems and Databases. During the 1994-1996 time period, I was the Director of Bioinformatics, Alliance Management. In the latter position, my responsibilities included handling of information transmitted electronically between GSK (then "SmithKline Beecham"), and Human Genome Sciences, Inc. ("HGS"). One facet of this electronic communication was the Work Request System established by GSK.
2. I am very familiar with the routine business practices and procedures established and maintained by GSK with respect to electronic records and databases GSK keeps in its normal course of business activity in connection with its bioinformatics research, and particularly in connection with joint projects involving HGS and GSK.
3. I am personally aware that, from a date prior to 1994 through the present, GSK has kept and continues to keep electronic records of, *inter alia*, events, acts, acquired information, and data, in the normal course of its regularly-conducted business in connection with its bioinformatics research. The specific information contained within such records is entered by the individual having the knowledge recorded or by a person to whom that knowledge has been transmitted. In GSK's normal course of business, such records are prepared either contemporaneously or near to the time of the event, act, or acquisition recorded. Moreover, the

preparation and maintenance of such records has been and remains a regular business practice of GSK in connection with its bioinformatics research.

4. One example of the type of electronic record that it was and is GSK's regular business practice to make, and which was and is kept in the regular course of GSK's business, includes that represented by RE72, which is a print-out of a portion of an electronic spreadsheet, referred to as the Work Request System, maintained in connection with GSK's joint activities with HGS involving, for example, tumor necrosis factor (TNF) related molecules.

5. I have personally reviewed RE72 and I can attest that this document is a copy of a record kept by GSK in the course of its regularly-conducted business activities, and that it was the regular practice of GSK to generate and keep such a record. I can further attest that each of the entries in this record was prepared at or near the time of the recorded activity by a person with knowledge thereof.

6. More specifically, based upon my review of RE72, I can attest that this record indicates that on July 1, 1994, Peter R. Young of SB submitted a request for sequencing of HTPAN08 (RE72, page 1, line 2). This request was approved on July 11, 1994 (RE72, page 1, line 2) and completed on July 25, 1994 (RE72, page 1, line 2). The Reviewer Name was "Christine Deb" (*i.e.* Christine Debouck; the column headers in RE72 are actually truncated versions of the full header title) of GSK, the "Date PI Assi" (*i.e.* Date PI Assigned) was July 12, 1994, the date of "HGS Comme" (*i.e.* HGS Comments) was July 25, 1994, and Steven Ruben is listed as the HGS contact in connection with the HTPAN08 sequence (RE72, page 3, line 2). RE72 also shows that, on February 28, 1995 (RE72, page 1, lines 12, 18, 28, 31, and 32) and April 4, 1995 (RE72, page 1, lines 3 and 23), samples of clone HTPAN08

were requested by K. B. Tan and A. Trunch. and on June 9, 1995, a sample of clone HTPAN08 was requested by Yen Sen Ho of GSK (I RE72!, page 1, line 33).

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the above-captioned application or any patent issuing thereon.

Date

July 15, 2004

P. Paul Reed

Paul Reed